

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RFU-98-11, RFU-98-22, RFU-99-2, WRU-00-21-156 (WRU-98-9-156)
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ORDER APPROVING AD VALOREM TAX REFUND PLAN

(Issued August 21, 2000)

On March 2, 1998, MidAmerican Energy Company (MidAmerican) filed a request for a waiver of 199 IAC 19.10(8). The filing was identified as Docket No. WRU-98-9-156. Subrule 19.10(8) requires that a utility shall refund to customers an amount equal to any refund received from a supplier, plus interest where appropriate. The subrule also requires the utility to file a refund plan within 30 days of receipt of the refund from the supplier.

MidAmerican indicated that it had received a refund from Northern Natural Gas Company (Northern) in the amount of \$3,854,533. The refund was for amounts related to the payment of Kansas's ad valorem taxes during the period 1983 to 1988. MidAmerican indicated that the FERC order requiring the refunds was not final and there was a possibility that the refunds would have to be returned. MidAmerican requested the waiver until the appeals of the FERC order were final. The Board issued an order on April 22, 1998, granting the waiver until the FERC order was final,

and directing MidAmerican to file a status report concurrent with its annual purchased gas adjustment reconciliation filings.

On May 18, 1998, MidAmerican filed another request for a waiver of 199 IAC 19.10(8) for a second refund by Northern related to ad valorem taxes. This filing was identified as Docket No. RFU-98-11. The amount of the refund was \$596,237.34. MidAmerican proposed to treat this second refund in the same manner as the first refund as approved by the Board on April 22, 1998. On June 25, 1998, the Board issued an order granting the waiver under the same terms as the first waiver.

On October 7, 1998, MidAmerican filed a plan for refunds related to a third refund by Northern related to ad valorem taxes. This filing was identified as Docket No. RFU-98-22. The refund amount was \$195,749.02. MidAmerican again requested a waiver of 199 IAC 19.10(8) and proposed to treat this third refund in the same manner as the previous two. On November 19, 1998, the Board issued an order approving the refund plan and granting the waiver.

On April 13, 1999, MidAmerican filed with the Board a request that a fourth refund from Northern related to Kansas ad valorem taxes be treated in the same manner as the previous three refunds. The filing was identified as Docket No. RFU-99-2. The Board approved the treatment of the refund in a letter from the Executive Secretary dated June 2, 1999.

The U.S. Court of Appeals issued an order on October 29, 1999, which affirmed the FERC order that required refunds of amounts paid for Kansas ad

valorem taxes, with interest. On February 28, 2000, the Board issued an order finding that the uncertainty regarding the refund had been reduced and directing MidAmerican to file a plan to begin refunding the money from the four ad valorem tax refunds to customers. The Board indicated that the waivers granted previously were terminated.

On March 17, 2000, MidAmerican filed an application for rehearing and stay of the February 28, 2000, order. MidAmerican asserted that there was still significant uncertainty concerning the refunds. The Board, by order issued March 28, 2000, denied the stay and indicated that it would address the request for rehearing in a later order. MidAmerican was still required to file a refund plan.

On April 3, 2000, MidAmerican filed a refund plan, consisting of (1) an updated status report regarding the uncertainty surrounding the ultimate disposition of Kansas ad valorem tax refund amounts, (2) an application for a waiver of 199 IAC 19.10(8)"a" whereby MidAmerican would retain the refund in a special refund retention account until November 1, 2000, and (3) proposed refund plan factors. The request for waiver was identified as Docket No. WRU-00-21-156. MidAmerican requested as part of its refund plan that it be authorized to include the refunds in its Annual Purchased Gas Adjustment (PGA) reconciliation. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) supported the request for waiver to hold the refunds until November 1, 2000.

The Board issued an order on April 14, 2000, granting the waiver and granting the rehearing to allow MidAmerican to retain the refund amounts through

November 1, 2000. In the order, the Board stated that allowing MidAmerican to retain the refund amounts until the PGA reconciliation was beneficial because (1) the refund amounts could be used to offset any PGA under-collections, (2) the additional time should clarify the total amount of the refunds, and (3) by refunding through the PGA, the expense of bill credits or checks would be eliminated.

On May 4, 2000, Iowa Industrial Intervenors (III) filed a motion to intervene in these proceedings and an application for rehearing and reconsideration. III asserted in its pleading that they were sales customers of MidAmerican during the period 1983 to 1988, and they should share in the refunds. III indicated that since they are no longer sales customers they would not share in the refunds if the refunds were returned as part of the PGA reconciliation process. III requested that the Board reconsider its April 14, 2000, order and permit current transportation customers, who were former sales customers, to share in the refund. MidAmerican filed a reply to III in which MidAmerican states that the remoteness of the period may make it difficult if not impossible to determine the proper amount to refund each industrial customer. MidAmerican asserted that it would be impractical to use the actual sales data to calculate the refunds, and proposed to use throughput data for the calendar year 1999 attributable to transporters that received gas at Northern delivery points. On May 18, 2000, Consumer Advocate filed a response to III's application. Consumer Advocate supported the use of actual sales volumes from 1983 to 1988 for determining III's refund amounts.

On June 2, 2000, the Board issued an order granting III intervention in the various dockets and granted reconsideration of its April 14, 2000 order. The Board then adopted a procedural schedule for these proceedings. In compliance with the procedural schedule, on June 23, 2000, MidAmerican filed a report showing its proposed method of allocating a portion of the Kansas ad valorem tax refunds to current transportation customers. MidAmerican indicates that the report was prepared in conjunction with III and Consumer Advocate.

In the report, MidAmerican states that return of refunds based upon actual volumes used by customers who paid the ad valorem taxes in 1983 to 1988 is not practical. MidAmerican then sets out a refund procedure for Board consideration. This procedure proposes to make refunds based upon (1) Iowa transportation throughput volumes for 1999 on the Northern system, plus sales volumes attributable to 1999 usage by customers on the Northern system who switched to transportation service during 1999, and (2) all sales service volumes on MidAmerican's Iowa distribution system for 1999, except those volumes that are included in (1).

The report proposes that customers transporting natural gas during calendar year 1999 on the Northern system will share in the refund, and sales service customers will share in the refund to the extent that they are billed PGA factors during the ten month reconciliation period beginning November 1, 2000. In addition, a transportation customer may furnish appropriate proof of actual usage during 1983 to 1988, in lieu of calendar year 1999 transportation volumes. MidAmerican proposes to give transportation customers notice of the refunds and the opportunity

to provide actual data. Consumer Advocate filed a pleading on July 6, 2000, agreeing with the procedure proposed by MidAmerican in the report. Ill did not file a pleading concerning the report.

The Board has reviewed the extended history concerning the return of ad valorem tax refunds to Iowa customers. The refunds have been the subject of much litigation, which has delayed the return of these refunds. Most of the litigation has been concluded and the Board now has a plan before it to return money to customers. Because of the delay, the customers who paid the taxes as part of the cost of gas from 1983 to 1988 may not be the customers who receive the benefit of the refund. The passage of time though has made refunds based upon actual volumes from the refund period impractical. MidAmerican has proposed using 1999 volumes as a substitute for the actual data for the period when the taxes were paid.

The taxes were paid by sales customers on MidAmerican's system during a time when large customers were switching from sales to transportation service. Although current transportation customers are not sales customers today, the Board finds that they should share in the refunds. The plan proposed by MidAmerican would return the money to current sales customers through the PGA, which will reduce the cost of gas over the ten-month reconciliation period after November 1, 2000. The plan would return the money to current transportation customers as bill credits or by check.

The Board finds that the plan proposed by MidAmerican is reasonable considering the inability or impracticability of recreating the customer volumes for the

period when the ad valorem taxes were paid. The use of 1999 volumes for division of the refunds between current sales customers and transportation customers will allow the refunds to be returned in as equitable a manner as is practical. Both Ill and Consumer Advocate have concurred in this plan. The Board will therefore approve the plan to refund the ad valorem tax refunds as proposed by MidAmerican on June 23, 2000.

IT IS THEREFORE ORDERED:

1. The refund plan filed by MidAmerican Energy Company on June 23, 2000, is approved.
2. MidAmerican shall file a final report showing the total amount refunded to both sales and transportation customers within thirty days of the completion of the refund.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 21st day of August, 2000.